

# Raymond Shih Ray Ku

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**CURRENT APPOINTMENT** **CASE WESTERN RESERVE UNIVERSITY SCHOOL OF LAW**, Cleveland, OH 2003 to present  
Professor of Law, Teach classes in Constitutional, Cyberspace/Internet, Privacy, and Copyright Law. Additional courses and areas of expertise include: Mass Media and Property law.

Associate Dean for Academic Affairs 2010 to 2011  
Responsible for the administration and management of the law school's curriculum of over 200 courses, approximately 50 full-time faculty members, roughly 100 adjunct faculty members, and the enforcement of law school's academic policy for almost 600 students. Represented the administration at faculty and University committees as well as at events and functions when the Dean is unavailable.

*Director*, Center for Cyberspace Law & Policy 2014 to present  
*Co-Director*, Center for Law, Technology & the Arts 2006 to 2013  
*Co-Director*, Cyberspace Law & Policy Office 2008 to 2013  
*Associate Director*, Center for Law, Technology & the Arts 2003 to 2006

**AWARDS** *Professor of the Year* 2009  
*CWRU Law Alumni Association Distinguished Teacher* 2009  
*CWRU Baker-Nord Seminar Fellow* 2006

**SELECT PUBLICATIONS**

- CYBERSPACE LAW: Cases & Materials (4th Ed. Aspen 2016)
- *Net Neutrality & Free Speech: A Response to Justice Kavanaugh*, \_\_ U. Pitt. L. Rev. \_\_ (2019) (forthcoming)
- *The First Amendment Implications of Copyright Hypocrisy*, 17 Va. Sports & Ent. L. J. \_\_\_\_ (2018) (forthcoming)
- *Does Copyright Law Promote Creativity? An Empirical Analysis of Copyright's Bounty*, 63 VAND. L. REV. 1669 (2009) (with J. Sung & Y. Fan)
- *Grokking Grokster*, 2005 WIS. L. REV. 1217
- *Consumer Copying & Creative Destruction: Fair Use Beyond Market Failure*, 18 BERK. TECH. L. J. 539 (2003)
- *The Founders' Privacy: The Fourth Amendment and The Power of Technological Surveillance*, 86 MIN. L. REV. 1325 (2002)
- *The Creative Destruction of Copyright: Napster & the New Economics of Digital Technology*, 69 U. CHI. L. REV. 263 (2002)  
*Reprinted in* COPYRIGHT LAW: COPYRIGHT IN THE 21<sup>ST</sup> CENTURY (Ashgate 2011)
- *Consensus of the Governed: The Legitimacy of Constitutional Change*, 64 FORDHAM L. REV. 535 (1995)

**BOOKS**

- CYBERSPACE LAW: Cases & Materials (4th Ed. Aspen 2016)
- CYBERSPACE LAW: Cases & Materials (3d Ed. Aspen 2010) (with J. Lipton)
- Teacher's Manual CYBERSPACE LAW: Cases & Materials (3d Ed. Aspen 2007) (with J. Lipton)
- CYBERSPACE LAW: Cases & Materials (2d Ed. Aspen 2006) (with J. Lipton)

- Teacher's Manual CYBERSPACE LAW: Cases & Materials (2d Ed. Aspen 2007) (with J. Lipton)
- CYBERSPACE LAW: Cases & Materials (Aspen 2002) (with M. Farber & A. Cockfield)
- Teacher's Manual CYBERSPACE LAW: Cases & Materials (Aspen 2002)

## ARTICLES

- *Net Neutrality & Free Speech: A Response to Justice Kavanaugh*, \_\_ U. Pitt. L. Rev. \_\_ (2019) (forthcoming)
- *The First Amendment Implications of Copyright Hypocrisy*, 17 Va. Sports & Ent. L. J. \_\_\_\_ (2018) (forthcoming)
- *How Cyber Developments and "Fake News" Shape First Amendment Jurisprudence: A Conversation with an Expert: An Interview with Raymond Ku*, 18 Georgetown Journal of International Affairs 28 (2017)
- *Data Privacy as a Civil Right*, 103 KY. L. J 391 (2015) (invited)
- *Unlimited Power: Why the President's (Warrantless) Surveillance Program is Unconstitutional*, 42 CASE W. RES. J. INT'L. L. 647 (2010) (invited)
- *Privacy is the Problem*, 19 Widener L. J. 873 (2010) (invited)
- *Does Copyright Law Promote Creativity? An Empirical Analysis of Copyright's Bounty*, 63 VAND. L. REV. 1669 (2009) (with J. Sung & Y. Fan)
- *F(r)ee Expression: Reconciling Copyright & the First Amendment*, 57 CASE W. RES. L. REV. 863 (2007)  
Reprinted in COPYRIGHT: ISSUES AND CHALLENGES (Amicus Books 2008)
- *Is Nominal Use An Answer to the Free Speech & Right of Publicity Quandary? Lessons from America's National Pastime*, 11 CHAPMAN L. REV. 435 (2008) (invited)
- *Promoting Diverse Cultural Expression: Lessons from the U.S. Copyright Wars* 2 ASIAN J. OF WTO & INT'L HEALTH LAW & POL'Y 369 (2007) (invited)  
Reprinted in COPYRIGHT INFRINGEMENT (Amicus Books 2008)
- *Copyright Lochnerism*, 33 N. KY. L. REV. 401 (2006) (invited)
- *Grokking Grokster*, 2005 WIS. L. REV. 1217
- *Privacy as Process*, 2 GEO. J. OF LAW & PUB. POL. 39 (2004) (invited)
- *The Internet Revolution*, 20 SANTA CLARA COMPUTER & HIGH TECH. L. J. 205 (2003) (invited)
- *Is File Sharing Illegal?* Cleveland Free Times (Oct. 2003) (invited)
- *Consumer Copying & Creative Destruction: Fair Use Beyond Market Failure*, 18 BERK. TECH. L. J. 539 (2003) (invited)
- *The Founders' Privacy: The Fourth Amendment and The Power of Technological Surveillance*, 86 MIN. L. REV. 1325 (2002)
- *The Creative Destruction of Copyright: Napster & the New Economics of Digital Technology*, 69 U. CHI. L. REV. 263 (2002)  
Reprinted in COPYRIGHT LAW: COPYRIGHT IN THE 21<sup>ST</sup> CENTURY (Ashgate 2011)
- *Irreconcilable Differences: Congressional Treatment of Internet Service Providers as Speakers*, 3 VAND. ENT. LAW & PRAC. J. 70 (2001) (invited)
- *Think Twice Before You Type*, OPINION & COMM., 163 N.J.L.J. 23 (Feb. 19, 2001) (invited)
- *Open Internet Access & Freedom of Speech: A First Amendment Catch-22*, 75 TUL. L. REV. 87 (2000)  
Reprinted in FIRST AMENDMENT LAW HANDBOOK 2001-2002 (West Group)  
Appeared in STANFORD TECHNOLOGY LAW REVIEW (Working Paper Series 2000)

- *Antitrust Immunity, the First Amendment & Settlements: Defining the Boundaries of the Right to Petition*, 33 IND. L. REV. 385 (2000)  
*Reprinted in* FREEDOM OF ASSEMBLY AND PETITION: THE FIRST AMENDMENT, ITS CONSTITUTIONAL HISTORY AND THE CONTEMPORARY DEBATE (Prometheus Books 2010).
- *FOREWORD: A Brave New Cyberworld?*, 22 THOMAS JEFFERSON L. REV. 125 (2000) (invited)
- *Swingers: Morality Legislation & The Limits of State Police Power*, 12 ST. THOMAS L. REV. 1 (1999) (invited)
- *Consensus of the Governed: The Legitimacy of Constitutional Change*, 64 FORDHAM L. REV. 535 (1995)
- *EQUALITY OF EDUCATIONAL OPPORTUNITY & DISTRIBUTIVE JUSTICE: A Case Study of Equal Protection and School Financing* (1988) (unpublished A.B. honors thesis, Brown University) awarded the Philo Sherman Bennet Prize (best thesis discussing the principles of free government)

IN PROGRESS

- Privacy: It's None of Your Business
- We the People v. Me the People: The Struggle for the Soul of the U.S. Constitution

PRESENTATIONS

- Featured Speaker, Affirmative Action in College Admissions, The Moritz College of Law at The Ohio State University School, Mar. 2019.
- "Free Speech & Net Neutrality," The Net Without Neutrality, 80<sup>th</sup> Publishing Anniversary Symposium sponsored by the University of Pittsburgh Law Review, Mar. 2019.
- Panelist, "Is the President Above the Law? Executive Power and Its Limits, City Club of Cleveland, Feb. 11, 2019
- Featured Speaker, "Encryption: Privacy v. Public Safety", Case Western Reserve University Constitution Day, Sep. 17, 2018.
- Moderator, "Overcoming Barriers in order to Excel in Academia," Mid-Western People of Color Legal Scholarship Conference, Case Western Reserve University School of Law, Apr. 5, 2018.
- "The First Amendment Implications of Copyright Hypocrisy," Works in Progress IP 2018. Case Western Reserve University School of Law.
- Panelist, "Ghosts in the Machinima: Law and Culture in Interactive, Augmented, and Virtual Worlds, Case Western Reserve University School of Law, Spangenberg Center for Law, Technology & the Arts, Oct. 2017
- "The Wrong Slant," Supreme Court Intellectual Property Review, Chicago-Kent College of Law, Sep. 2017
- "Copyright's Hypocrisy," Intellectual Property Symposium, Michigan State University College of Law, Nov. 2014
- "Personal Information & Civil Rights," Symposium sponsored by the Kentucky Law Journal, University of Kentucky College of Law, Oct. 2014.
- Debate: "Internet Piracy and the Constitution," Case Western Reserve University, Sep. 2012.
- "Hate, Affinity & Merit: Why Diversity Matters" Power of Diversity University Lecture Series, Case Western Reserve University School of Law, Sep. 2011.
- Panelist, "Is the Affordable Care Act Constitutional?" Elana and Miles Zaremski Law Medicine Forum, Case Western Reserve University School of Law, Mar. 2011.

- “Privacy: It’s None of Your Business,” Faculty Research Program, The University of Akron School of Law, Apr. 2010.
- “A Stranger in a Strange Land,” Keynote Address, First Annual Midwestern APALSA Conference, Feb. 2010.
- “Privacy is the Problem” Symposium sponsored by Widener Law Journal, Widener University School of Law, Feb. 2010.
- A Debate on IP Infringement or Theft (with Professor Adam Mossoff, George Mason Law School, sponsored by The Federalist Society of Case Western Reserve University School of Law, Jan. 2010.
- “Of Two Minds: Trademark & Free Speech Laws’ Differential Regulation of Cognitive Space,” Symposium: Signifiers in Cyberspace sponsored by Center for Law, Technology & the Arts, Case Western Reserve University School of Law, Nov. 2009.
- “Unlimited Power: Why the President’s (Warrantless) Surveillance Program is Unconstitutional,” Symposium: Somebody’s Watching Me sponsored by Institute for Global Security Law & Policy, Case Western Reserve University School of Law, Oct. 2009.
- Supreme Court Preview 2009-2010 Term, American Constitution Society, Northeast Ohio and Case Western Chapters, Case Western Reserve University School of Law, Oct. 2009.
- Commentator: Rethinking Free Speech and Civil Liability, Privacy Law Scholars Conference, University of California, Berkeley School of Law, Jun. 2009.
- Intelligent Webs & Privacy Issues: Collaboration Technology & Engaging the Campus, Case Western Reserve University, May 2009
- Commentator: Junior Scholars in IP workshop, Michigan State University College of Law, Mar. 2009.
- Moderator: The Death of an Author: A Publishing Horror Story sponsored by the Case Western Reserve University, Jan. 2009.
- Moderator: Standing Rights, Symposium: Access to the Courts in the Roberts Era sponsored by the Case Western Reserve University Law Review, Jan. 2009.
- Debate Moderator: Was *Kelo* Wrongly Decided? Case Western Federalist Society, Case Western Reserve University School of Law, Nov. 2008.
- Supreme Court Preview 2008-2009 Term, American Constitution Society, Northeast Ohio and Case Western Chapters, Case Western Reserve University School of Law, Oct. 2008.
- “Does Law Inspire Creativity? An Empirical Analysis of Copyright’s Bounty,” Intellectual Property Scholars Conference, Stanford Law School, Aug. 2008.
- Commentator, “Inferring Private Data from Publicly-Available Sources” by Alessandro Acquisti & Ralph Gross, Privacy Law Scholars Conference, George Washington University School of Law, Jun. 2008.
- “Copyright’s Bounty,” Hosier Distinguished Visiting Intellectual Property Scholar, DePaul University School of Law, Apr. 2008.
- “Free Speech, Free Publicity?” Symposium: Publicity Rights in Bytes: Contemporary Issues in Entertainment & Sports Law sponsored by the Chapman Law Review, Feb 2008.
- “Promoting Diverse Cultural Expression: Lessons from the U.S. Copyright Wars,” International Conference: Cultural Diversity under International Trade Regime: Policy and Practices hosted by the Asian Center for WTO & International Health law and Policy, College of Law, National Taiwan University, June 2007.
- “Intellectual Property Aspects of Entrepreneurship,” Session Chair, Comparative Legal Aspects of Entrepreneurship in Canada and the United States sponsored by Canada-US Law Institute, Apr. 2007.

- “Sacred Violence: Religion & Terrorism,” Panel Moderator, The Roe Green Foundation Conference Presented by the Institute for Global Security Law and Policy, Mar. 2007.
- “The Great Writ: Civil Liberties in an Age of Terror,” Public Speaker Series sponsored by the Geauga County Democratic Party, Mar. 2007.
- “Fair Use & Copyright,” Getting Published Series sponsored by the Baker-Nord Center for the Humanities, Feb. 2007.
- “Copyright Lochnerism,” Symposium: First Amendment Lochnerism sponsored by the Salmon P. Chase College of Law & Northern Kentucky Law Review, Mar. 2006.
- “The NSA Wiretapping Controversy,” Mock U.S. Congressional Hearing sponsored by the Frederick K. Cox International Law Center and the Institute for Global Security Law & Policy, Case Western Reserve University School of Law, Feb. 2006, rebroadcast on NPR.
- “The Secondary Liability Dilemma,” AALS, Jan. 2006.
- “Grokking Grokster,” Ivy League Distinguished Scholar Lecture Series, Apr. 2005.
- “P2P & The Digital Paradigm,” Symposium: Hot Topics in IP Law at Duke University School of Law sponsored by the Intellectual Property Law Association, Apr. 2004.
- “Copyright: Beyond the Rhetoric,” Symposium: The Digital Challenge to Copyright Law sponsored by the Santa Clara Computer & High Technology Law Journal, Feb. 2004.
- “Privacy as Process,” Symposium: Security, Technology and Individual Rights at Georgetown University Law Center sponsored by the Georgetown Journal of Law and Public Policy, Mar. 2003.
- “Ferries, Bridges, and Information Superhighways,” Cardozo Law School Distinguished Speaker Series, Mar. 2003.
- “Creative Destruction and Fair Use,” Symposium: The Law & Technology of Digital Rights Management sponsored by the Berkeley Center For Law & Technology and Berkeley Technology Law Journal, Feb. 2003.
- “Creative Destruction and Fair Use,” Cornell Law School Faculty Workshop, Dec. 2002.
- “Vulnerability Reporting & the First Amendment,” Symposium: Software Security & Vulnerability Reporting sponsored by Seton Hall Law School Institute of Law, Science & Technology, Nov. 2002.
- “Creative Destruction and Fair Use,” Case Western Law School Faculty Workshop, Oct. 2002.
- “The Founders’ Privacy,” Symposium: Modern Studies of Privacy Law at University of Minnesota School of Law sponsored by the Minnesota Law Review, Feb. 2002.
- “What’s the Big Deal About Napster?” at Seton Hall Law School sponsored by the Intellectual Property and Entertainment Law Societies, Nov. 2000.
- “The Digital Dilemma” at Seton Hall Law School Institute of Law, Science & Technology, Aug. 2000.

## SERVICE

ADMISSIONS COMMITTEE, 2013-14, 2016-PRESENT  
 FACULTY SENATE COMMITTEE ON INFORMATION & COMMUNICATION TECHNOLOGY, 2017-18  
 LOAN REPAYMENT COMMITTEE, 2013  
 LAW SCHOOL DIVERSITY COMMITTEE, 2011 (CHAIR)  
 FACULTY SENATE COMMITTEE ON MINORITY AFFAIRS, 2010-11, 2011 (CHAIR)  
 PROMOTION AND TENURE COMMITTEE, 2004-PRESENT, 2008-09 (CHAIR), 2009-2010 (CHAIR)  
 CLINICAL FACULTY TENURE COMMITTEE, 2007-08 (CHAIR)  
 RANKINGS COMMITTEE, 2006-07

APPOINTMENTS COMMITTEE, 2003-04; 2004-5 (CHAIR)  
THE INTERNET LAW JOURNAL, FACULTY ADVISOR, 2003-2009  
THE JOURNAL OF LAW, TECHNOLOGY & THE INTERNET, FACULTY ADVISOR, 2009-PRESENT  
CO-DIRECTOR, CENTER FOR LAW, TECHNOLOGY & THE ARTS, 2006 TO 2012  
ASSOCIATE DIRECTOR, CENTER FOR LAW, TECHNOLOGY & THE ARTS, 2003 TO 2006

**TEACHING**

**CORNELL LAW SCHOOL**, Ithaca, NY 2002 to 2003  
Visiting Associate Professor of Law, Taught Cyberspace, Copyright, and Media Law.

**SETON HALL UNIVERSITY SCHOOL OF LAW**, Newark, NJ 2000 to 2003  
Associate Professor of Law, Taught Constitutional I & II, Cyberspace, and Copyright law.

Founding Director, Institute of Law, Science & Technology, developed IP curriculum and academic programs. Organized symposia and speakers. Advised students interested in IP, Internet, and Technology Law.

**THOMAS JEFFERSON SCHOOL OF LAW**, San Diego, CA 1999 to 2000  
Associate Professor of Law, Taught Constitutional and Cyberspace Law.

Founding Director, Center for Law, Technology & Communications, Established Center for Law, Technology & Communications. Developed IP and technology curriculum. Organized speakers.

**ST. THOMAS UNIVERSITY SCHOOL OF LAW**, Miami, FL 1998 to 1999  
Visiting Assistant Professor of Law, Taught Property, Intellectual Property, and Mass Media.

**CLERKSHIP**

**TIMOTHY K. LEWIS, U.S. COURT OF APPEALS**, Pittsburgh, PA 1995 to 1996

**LITIGATION**

**LEVINE PIERSON SULLIVAN & KOCH, L.L.P.**, Washington, D.C. Mar. 1997 to Aug. 1998  
Associate, Practice Areas: First Amendment, Media & Intellectual Property Law. Litigated all aspects of cases involving access to judicial proceedings and public records, defamation, and copyright infringement. Lead trial counsel in the criminal defense of a journalist. Researched and drafted certiorari petitions, appellate and trial briefs, and motions. Conducted depositions and witness interviews. Counseled clients on intellectual property and Internet issues.

**GIBSON, DUNN & CRUTCHER, LLP**, Washington, D.C. Sept. 1996 to Mar. 1997  
Associate & Summer Associate, Practice Areas: Constitutional, First Amendment, Media & Antitrust Law. Researched and drafted certiorari petitions, appellate and trial briefs, motions, and litigation memorandums of law. Negotiated with opposing counsel. Interviewed witnesses.

**NEW YORK CIVIL LIBERTIES UNION**, New York, NY Fall 1994  
Fellow, Assisted in First Amendment challenge of the Cable Act and censorship of leased access cable television.

**PAUL, WEISS, RIFKIND, WHARTON & GARRISON**, New York, NY Summer 1994

Summer Associate, Drafted briefs, memorandums of law, and corporate documents.

**THE LEGAL AID SOCIETY**, New York, NY

Summer 1993

CIVIL APPEALS & LAW REFORM UNIT

Legal Intern, Drafted trial briefs and memorandums of law on fair housing and healthcare.

**AMERICAN CIVIL LIBERTIES UNION**, New York, NY

1992 to 1993

CHILDREN'S RIGHTS PROJECT & NATIONAL LEGAL DEPARTMENT

Legal Intern, Drafted trial briefs and memorandums of law in constitutional challenges to foster care and educational financing.

## EDUCATION

**NEW YORK UNIVERSITY SCHOOL OF LAW**, J.D., Class of 1995

Honors: *cum laude*

ARTHUR GARFIELD HAYS CIVIL LIBERTIES FELLOWSHIP: *Leonard Boudin Fellow*

Activities: Civil Rights & Civil Liberties Union, *Founder*

**HARVARD LAW SCHOOL**, Visiting J.D. Student, 1993-1994

**BROWN UNIVERSITY**, A.B. Political Science, Class of 1992

Honors: Honors in Political Science

Philo Sherman Bennet Prize

Activities: Varsity Fencing Team 1988-92, *Captain*, 1991-92

Alpha Delta Phi, Brunonian Chapter

## PROFESSIONAL

**ASSOCIATIONS** United States Supreme Court (admitted 2016), New York State Bar (admitted 1996), Washington D.C. Bar (admitted 1997), Copyright Society of American, American Intellectual Property Law Association, American Bar Association.

## ORGANIZATIONS

Board of Directors, American Civil Liberties Union of Cleveland

Board of Directors, A Cultural Exchange

Central Committee Member, Geauga County Democratic Party

## OTHER

Candidate for Ohio State Representative, 2006

Regional Member, Ohio Judicial Appointments Recommendation Panel, 2007

2008 Democratic Primary – Obama Presidential Campaign Precinct Coordinator

2008 General Election - Ohio Democratic Party/Obama Presidential Campaign County Voter Protection Liaison/Coordinator

## PERSONAL

### INTERESTS

Cello, Olympic archery, Running, Cycling, Martial Arts, Fencing, Practical Pistol & 3 Gun, Musical Theater, Piano, and Cooking.